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But if, in fact, the custom were that drafts were equivalent to cash as a means of payment, it would seem that the buyer should be able to put the seller in default by such a tender.

**TAXATION—TRANSFER AND INHERITANCE TAX—ADDITIONAL TAX IN CASE OF NON-PAYMENT OF PERSONAL PROPERTY TAX.**—Decedent acquired taxable bonds after date when assessment roll was filed and died two days before the assessment of the following year, never having paid either local or state taxes on the bonds. The State Comptroller appeals from an order of the Surrogate striking from the transfer tax the additional tax of five per cent provided by section 221b of the New York Tax Law. Consol. Laws c. 62 (Laws of 1917 c. 700). This section imposes the additional tax on investments, unless the decedent has paid personal property taxes on them, or unless immunity therefrom has been secured by voluntary payment of the State Investment Tax provided by section 331 of the same chapter. *Held*, order of Surrogate affirmed. *In re Otis' Estate* (1920) 180 N. Y. Supp. 313.

It would appear that this decision necessarily follows from the reasoning in *Matter of Watson* (1919) 226 N. Y. 384, 123 N. E. 758, in which it was held that the five per cent tax was constitutional. In that case the intervenors contended that section 221b resulted in making the Investment Tax compulsory, notwithstanding its clear language, and if compulsory it would be unconstitutional as imposing a tax on face value and not on actual value of the securities. In answer, the court pointed out on p. 405 that the taxpayer always had the alternative of paying his rightful local taxes. Hence, to preserve this latter premise intact it seems necessary to hold, as in the principal case, that section 221b does not apply in the absence of such opportunity to pay local taxes. On principle also, the decision in the instant case seems to be sound. As special taxation, these provisions are always construed strictly against the state and in favor of the taxpayer. See *Matter of Vassar* (1891) 127 N. Y. 1, 128, 27 N. E. 394. The clear intention of the statute is to discourage evasion of the personal property tax, and it was not intended to apply where no duty arises to list or pay such a tax within the period during which the investments are held. Clearly the decedent was under no duty here. The State Tax is optional on the authority of *Matter of Watson, supra*, and it is settled that there is never any liability to pay taxes on personality acquired after the assessment day for the period ensuing. *Clark v. Norton* (1872) 49 N. Y. 243. Personal property taxes do not attach to the property taxed, but are a liability of the person holding title on the day of the assessment. *State v. Jersey City* (1882) 44 N. J. L. 156.

**TRUSTS—APPORTIONMENT—SALE OF DISSENTING STOCK UNDER REORGANIZATION.**—T, trustee of 2,100 shares in the L Co., refused to accept 10,500 shares of the C Co. in their place, under a consolidation plan. The R Co., a subsidiary of the C Co., took over the L Co.'s purchase contracts with the non-assenting shareholders, and bought T's stock at \$500 a share. This the R Co. exchanged for stock of the C Co., which was sold to the public. There was no formal distribution of assets by the L Co. to its stockholders in any way. *Held*, reversing the Surrogate's decree (1919) 106 Misc. 375, 174 N. Y. Supp. 880, the proceeds of the sale above the value of the stock at the time of the creation of the trust should be apportioned between the remainderman and life-